UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PENNSYLVANIA PUBLIC SCHOOL EMPLOYEES' RETIREMENT SYSTEM, individually and on behalf of all others similarly situated,	:	11 Civ. 733 (WHP)
Plaintiff,	:	(ECF)
v.	:	
BANK OF AMERICA CORPORATION, et al.,	:	
Defendants.	:	

SUPPLEMENTAL DECLARATION IN FURTHER SUPPORT OF THE BANK OF AMERICA DEFENDANTS' MOTION TO DISMISS THE CONSOLIDATED CLASS ACTION COMPLAINT

Scott D. Musoff hereby declares as follows:

1. I am a member of the bar of this Court and of the firm Skadden, Arps, Slate, Meagher & Flom LLP, counsel for Defendants Bank of America Corporation, Kenneth D. Lewis, Joe L. Price, II, Brian T. Moynihan, Charles H. Noski and Neil Cotty (collectively, the "BAC Defendants").

2. I respectfully submit this supplemental declaration in further support of the BAC Defendants' Motion to Dismiss the Consolidated Class Action Complaint ("Complaint") and to transmit to the Court a true and correct copy of the following document:

Exhibit EE	Full text of Bank of America Q4 2009 earnings call held on January 20, 2010 (cited in Complaint ¶ 21)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 2, 2012.

Scott D. Musoff

EXHIBIT EE

FD (Fair Disclosure) Wire

January 20, 2010 Wednesday

TRANSCRIPT: 012010sd.775

LENGTH: 12208 words

HEADLINE: Event Brief of Q4 2009 Bank of America Corporation Earnings Conference Call - Final

BODY:

PARTICIPANTS

. Kevin Stitt, Bank of America Corporation, IR . Brian Moynihan, Bank of America Corporation, CEO & President . Joe Price, Bank of America Corporation, CFO . Glenn Schorr, UBS, Analyst . Matt O'Connor, Deutsche Bank, Analyst . Ed Najarian, ISI Group, Analyst . Betsy Graseck, Morgan Stanley, Analyst . Paul Miller, FBR Capital Markets, Analyst . Jefferson Harralson, KBW, Analyst . Mike Mayo, CLSA, Analyst . John McDonald, Sanford Bernstein, Analyst . Moshe Orenbuch, Credit Suisse, Analyst

OVERVIEW

BAC reported 4Q09 total FTE revenue in excess of $25b. 4Q09 net loss, before $5b impact of preferred dividends in repayment TARP, was $194m or $0.60 per diluted share. For full-year 2009, before preferred dividends, net income was $6.3b or loss of $0.29 per diluted share after deducting preferred dividends and TARP repayments.

FINANCIAL DATA

A. Key Data From Call 1. 4Q09 total FTE revenue = in excess of $25b. 2. Full-year 2009 net income (before preferred dividends) = $6.3b. 3. 4Q09 net loss (before $5b impact of preferred dividends in repayment TARP) = $194m. 4. Full-year 2009 loss per diluted share (after deducting preferred dividends and TARP repayments) = $0.29. 5. 4Q09 net loss per diluted share (before $5b impact of preferred dividends in repayment TARP) = $0.60.

PRESENTATION SUMMARY

S1. 4Q09 Business Review (B.M.) 1. Management Update: 1. Brian Moynihan, new CEO. 2. Highlights: 1. 4Q09 net loss, $194m before $5b impact of preferred dividends in repayment TARP, which results in loss of about $0.60 per diluted share. 1. Included in $5b was $4.6b related TARP preferred stock, including $4b associated with repurchasing

TARP preferred as book value of preferred was less than the amount paid. 2. For full-year 2009, before preferred dividends, net income was $6.3b or loss of $0.29 per diluted share after deducting preferred dividends and TARP repayments. 1. TARP dividends and TARP repayments for 2009 represented $0.94 per diluted share. 3. Financial crisis, took toll on Co. in many ways during 2009. 1. With respect to investment by government, during 2009: 1. Repaid $45b of preferred stock. 2. Paid dividends of $2.6b. 3. Paid termination fees on proposed asset wrap of $425m. 4. Paid about $3b in various insurance fees, including normal FDIC expense. 5. Prepaid billions in FDIC premiums. 6. Issued the government warrants to buy 122m and 150m of shares of Co. at $30.79 and $13.30 respectively. 3. Revenue: 1. 4Q09 total FTE revenue, in excess of $25b. 2. Pretax, pre-provision income, approx. $9b even after impact of some unusual items. 3. Positive trends: 1. Credit card appears to be stabilizing if not improving. 1. Net credit losses in dollar terms decreased $1.6b from 3Q09, supporting Co.'s comments that overall credit costs were peaking. 2. Capital markets environment reflects strong investment banking revenue. 1. Up substantially from 3Q09, already strong qtr. in business. 2. Retained second place position. 3. Global Wealth and Investment Management results continued through strong asset management fees and brokerage income, driven by improving markets and increased client activity. 1. Number of financial advisors, stabilized at 15,000. 4. Across franchise, new deposit generation maintained positive momentum with overall total corporate wide avg. deposits up nearly $6b despite substantial drop of $15b in wholesale funding. 5. Continues to meet and exceed many milestones around Merrill and Countrywide integrations. 4. Any earnings impact of aforementioned positives, more than offset by: 1. Continued high level credit cost. 2. Lower customer activity due to economic environment. 3. Some other items, that have been headwinds most of 2009. 5. Total credits extended, including commercial renewals, $177b vs. $184b during 3Q09 as growth in commercial areas was more than offset by lower margin production. 1. Larger components: 1. First mortgages, $87b; down from $96b in 3Q09. 2. Non-real estate commercial, $66b. 3. Commercial real estate, $11b. 4. Remaining $13b includes $9b in other consumer retail loans and $4b in small business loans. 2. Despite these new extensions, loan balances overall declined since Co. did charge-offs, lower consumer spending, lower commercial client activity and resurgence in capital markets, allowing larger corporate clients to issue bonds and equity, replacing loans as source of funding. 6. Not seeing typical level of business activity for a recovery. 7. Provision expense decreased from 3Q09 by $1.6b driven by lower net charge-offs. 1. Credit cost included $1.7b addition to reserves vs. $2.1b in 3Q09. 1. Roughly half of reserve increase was driven by change in reserve coverage in consumer credit card to full 12- months. 4. Current Environment: 1. For almost six months now, many major economic indicators have been improving at national and global levels, indicating that Co. has reached bottom of cycle. 1. BAC economic team forecasts 2010 global growth, [about] 4% led by emerging markets and growth in US GDP of about 3%. 2. Embedded in aggregate outlook, believes Co.'s views on four economic indicators highly correlates to future economic performance: 1. Labor market: 1. Believes Co. can anticipate positive job growth during 1H10; even with this, number of unemployed will remain large for quite some time and extend drive on consumer spending and overall economic growth. 2. Housing market: 1. Although home prices in largest 20 markets have posted back-to-back monthly price increases for past few months, potential new round of foreclosures represents some downside risk to that stability. 3. Household network: 1. Recovery in equity market and stabilization in home prices led to recovery in total household wealth over past several months. 2. Consumer balance sheet, especially those that led the affluent customers, remains under stress. 4. Manufacturing: 1. There is an ongoing recovery in US manufacturing benefiting from affirming global economy as one can see in recent ISM survey result. 3. Although Co. believes it saw the peak in 3Q09, net loss levels remain elevated for next several quarters. 1. Additions to reserve have come down. 2. Although there may be some additions in some business lines in 1H10, overall Co. believes that corporate level significant additions to reserve are hopefully over.

S2. 4Q09 Financial Review (J.P.) 1. Large Items Impacted Earnings: 1. Structured notes issued by Merrill Lynch are mark-to-market under fair value option. 1. Resulted in hit earnings of $1.6b, $4.9b for whole year on a pretax basis primarily due to narrowing of Merrill Lynch credit spreads. 1. Mark was negative $1.8b in 3Q09. 2. Impact of mark in structured notes does not impact Tier 1 capital. 2. Looking forward, while most of negative mark should be behind Co., Merill Lynch spreads are still outside BAC, but not by much. 1. Spreads are clearly outside pre-disruption levels. 3. Credit valuation adjustments on derivative liabilities, principally in trading businesses, resulted in negative impact of $186m vs. negative impact of $713m in 3Q09. 4. Global Markets revenue absorbed additional write-downs of $1.1b due to legacy positions vs. net positive of $218m in 3Q09. 1. Included in commercial real estate side, Co. took a charge of

approx. $850m. 2. Remaining $250m of marks were spread over leveraged finance, structured credit trading, CDO exposure and auction rate securities. 5. Equity investment income included pretax benefit of $1.1b. 1. Write-off related to BlackRock ownership, driven by their equity issuance in connection with BGI acquisition. 2. Non-interest expense, recorded over $500m for litigation-related matters. 6. Tax rate or tax rate benefit of loss was higher than statutory due to tax benefits on certain foreign subsidiary restructurings in connection with merger activities and benefits from tax audit settlements. 1. For 2010, expects effective rate to trend closer to statutory [less $1-2b] in recurring benefits, absent any unusual items or changes in tax rules. 2. Deposits: 1. Earnings, $595m. 1. Down approx. $200m from 3Q09. 2. Net interest income, $1.8b. 1. Relatively flat with 3Q09. 3. Non-interest income, $1.7b. 1. Decreased $257m due mainly to actions highlighted in Oct. around overdraft fee policy changes. 2. Estimates that impact was about $160m, in line with what Co. conveyed on Oct., with rest of decline coming from normal seasonality and to some extent, customers better managing their cash flow. 4. Non-interest expense, $2.4b. 1. Flat to 3Q09. 5. Avg. retail deposit levels excluding Countrywide, up almost $12b or almost 2% from 3Q09, which Co. believes is quite strong. 1. Continued to see product mix shift from CDs to higher-margin liquid products, with checking products now representing 43% of retail deposit balances. 2. Merrill Lynch continues to show momentum as financial advisors provide customers with benefits from expanded product suite or cross selling. 3. Global Card Services: 1. Loss, $1b. 1. In line with 3Q09. 2. Revenues, down 2% from 3Q09 due to lower net interest income and fees. 3. Provision, almost flat or down $51m. 1. Managed net losses, down approx. $920m. 2. Provision was impacted by: 1. Increase in consumer credit card reserve coverage to 12 months, [about $800m]. 2. Reserve additions for maturing securitizations, totaled about $550m. 3. Aforementioned increases, partially offset by reductions in reserves for improvement in domestic portfolios. 4. Avg. managed consumer credit card outstandings, down 3.5% from 3Q09 to $163b. 1. On per avg. account basis, retail spending on credit card was up 8% and debit up 5% for holiday season vs. last year. 5. Continued to add new accounts. 1. 586,000 new domestic retail and small-business credit card accounts with credit lines totaling approx. $4b. 4. Home Loans & Insurance: 1. Experienced production levels slightly below 3Q09 activity. 1. Includes better MSR hedging results. 2. Total revenue, $3.8b. 1. Up $382m from 3Q09 levels. 2. Production income decreased $55m as higher margins were offset by it's lower production volume. 3. Secondary market gains. 1. This is line item where Co. records reps and warranties expense, up a little in this qtr. 3. Servicing income increased $447m primarily due to better MSR performance net of hedges results. 4. Capitalization rate for consumer mortgage MSR asset vs. combined consumer and commercial reported in industry, ended the qtr. at 113 BP vs. 102 BP in 3Q09 as interest rates were high at qtr.-end lowering prepayment risk. 5. Provision decreased $647m to $2.2b. 1. Net charge-offs decreased $462m to $1.5b. 6. Additions to reserve of $748m. 1. Down $185m with most of reserve additions associated with home-equity purchased impaired portfolio. 7. First mortgage fundings for the Corp. were $87b, down 9% from 3Q09, or $96b, which was reflective of rate environment. 1. Approx. 42% of these fundings were for home purchases vs. approx. 39% in 3Q09. 8. Continues to maintain strong market share. 1. Estimates to be 23-24%. 9. Industry outlook for re-finance and purchase transactions indicated by Mortgage Bankers Association for 2010 volume of $1.3t. 1. About 40% less than last year. 2. Would expect lower production levels over the next few quarters. 5. Global Wealth & Investment Management: 1. Earned $1.3b. 1. Up $1.1b from 3Q09 due mainly to BlackRock gain and lower provision. 2. Asset management fees and brokerage income, up $75m due to market valuations, but more importantly increased sales and transactional activity offset by various other items. 3. No charges for supporting cash funds vs. approx. $135m of support in 3Q09. 1. Columbia's money market funds no longer have exposure to structured investment vehicles. 4. Provision, down approx. $460m due to improved credit outlook for consumer real estate side in absence of large fraud loss in 3Q09. 5. 4Q09-end assets under management, $750b. 1. Up $10b from Sept.-end as improvement in market and positive flow generated by advisors were partially offset by continued outflows in Colombia cash complex. 6. 4Q09-end financial advisors, over 15,000. 1. Up slightly from Sept.-end. 2. Improved retention trends throughout the qtr. 7. Finalized details on sale of long-term asset management business of Columbia to Ameriprise. 1. Expected to close in 2Q10. 2. In low-end of disclosed range. 3. Believes this will have minimal P&L impact. 1. Expects to monetize nearly $800m of goodwill intangibles, thereby improving capital slightly. 6. Global Banking: 1. Encompasses: 1. Commercial Bank. 2. Corporate Bank. 3. Investment Bank. 2. Had increase in earnings of $224m vs. 3Q09 due mainly to: 1. Improved investment banking income. 2. Lower credit costs. 3. Although commercial and corporate clients are being cautious given economy and loan demand is down, continues to see improving liquidity in credit markets with credit spreads and market prices more reflective of underlying risks. 4. Provision expense decreased 12% to $2.1b. 5. Net charge-offs decreased 18% to

$1.4b. 6. Continued to add reserves during current qtr., $627m mainly associated with commercial real estate. 1. Slightly higher than addition in 3Q09. 7. Avg. loans as reported, down 4% from 3Q09 as clients continued to aggressively manage working capital and operating capacity levels. 1. In doing so, clients continued to take advantage of robust bond markets to manage bank debt levels and build cash in anticipation of stronger economy. 1. Avg. deposit levels increased $15b or almost 7% from 3Q09. 7. Investment Banking Fees: 1. Across markets and bankings, up $746m to $2.1b, before elimination of self-led deals. 1. Combined BAC-Merrill Lynch franchise ranked Number 2 in global and US investment banking fees in 2009. 8. Global Markets: 1. Earned $1.2b. 1. Down almost $1b from 3Q09. 2. Lower sales and trading results combined with higher write-downs on legacy assets drove the decrease. 9. Sales & Trading: 1. Revenues, $2.2b vs. $5.3b in 3Q09. 2. Absent legacy asset charges on a more business-as-usual basis, saw $3.3b reflecting normal seasonal slowdown. 3. Fixed income and equity income declined although rates in currencies and commodities within fixed income held up well. 1. Lower market volatility, reduction in risk appetite customers, especially in last couple of weeks in qtr. and normal seasonal slowdown contributed to decline in revenue. 1. Seeing typical strong start to Jan. on back of seasonally slow Dec. 4. Non-interest expense, down 11% from 3Q09 due to lower incentive costs. 5. Charges took this qtr. were centered in commercial real estate area. 1. From legacy or pre-disruption asset standpoint, remains most focused on commercial real estate and monoline credit default swaps. 6. Not included in fixed business segment is equity investment income of approx. $800m due mainly to improved market valuations. 1. Consolidated security gains, approx. $1b, partially offset by impairment charges on non-agency RMBS of approx. $200m. 10. Credit Quality: 1. Last qtr., announced that Co. felt it was close to peak in total net losses. 1. It appears that is the case. 2. Feels like Co. is moving from stability to actual improvement. 1. Given weak economy, Co. remains cautious. 3. Saw improvement in almost all categories including delinquency excluding Ginnie Mae repurchases. 4. Consumer credit losses continued to show flow through improved early-stage delinquencies earlier in the year in unsecured lending portfolios and some stabilization in consumer real estate. 1. Commercial portfolios reported lower charge-offs due to slower deterioration and slightly improved asset valuations. 2. Commercial real estate will continue to lag consumer recovery. 5. Rate of downward risk migration into criticized loans is clearly slowing. 6. Provision, $10.1b. 1. Exceeded net charge-offs reflecting addition of $1.7b to reserve; lower than addition of $2.1b in 3Q09. 7. Consumer reserve additions, $1.3b. 1. Approx. $800m related to increase in reserve coverage on consumer credit card to 12 months. 2. About $550m was added for card securitization that matured and came on balance sheet during qtr. 8. Added approx. $540m associated with Countrywide purchased impaired portfolio. 1. In consumer real estate loans, increased reserves by $270m. 2. These increases were offset by reductions in other products where delinquencies continued to improve.

S3. 4Q09 Other Financials (J.P.) 1. Commercial: 1. Added $560m for commercial real estate, primarily for non-home builder. 2. Reduced reserves in small business by $280m as credit quality continued to improve, partially due to stricter lending criteria implemented earlier in the year. 3. Allowance for loan and lease losses, $37.2b or 4.16% of loan and lease portfolio. 4. Reserve for unfunded commitments, $1.5b bringing total reserves to $38.7b. 5. Based on estimated addition of $11b in reserves related to adoption of FAS 166 and 167 effective on 01/01/10, credit reserve on pro forma basis would be just under $50b, improving reserve coverage of 4.16% by 60-65 BP. 6. Held net charge-offs across almost all businesses decreased $1.2b or 42 BP from 3Q09 levels to 3.71% of portfolio or $8.4b. 7. Managed overall net losses decreased $1.6b to $11.3b. 1. Of the $1.6b decrease, consumer decrease was 77% or about $1.25b. 8. Even though loss rates were down this qtr., loss rates are somewhat distorted by reductions in balances. 2. Consumer Credit Card: 1. Credit card represents 54% of total managed consumer losses. 2. Managed consumer credit card net losses, $4.9b vs. $5.5b in 3Q09. 1. Losses decreased due to drop in early stage delinquencies in 2Q09. 1. Coupling that with 180-day charge-off policy, one can see what drove reduction. 3. 30-day plus delinquencies in consumer credit card decreased $541m. 1. Third consecutive quarterly drop leading to reserve actions. 2. One qtr. does not make trend. 1. Feels much better about loss levels this qtr. and signals stabilization, if not an improvement trend. 3. Delayed recovery in US economy beyond expectations or unforeseen events could obviously keep pressure on the performance. 4. Credit quality in consumer real estate business appears to have stabilized given home equity charge-offs were down excluding one time items in 3Q09. 5. Important drivers: 1. Total consumer NPAs increased $1.3b vs. increase of $1.9b in 3Q09; now total $22.3b. 1. Primarily comprised of consumer real estate with lion's share being first mortgages. 2. Number of things affecting this portfolio. 1. Generally, places consumer real estate on non-performing at 90-days past due and

takes charge-offs at 180 days, at which time Co. writes loans down to appraise value. 2. Performs quarterly valuation refreshes, taking additional write-downs as needed. 6. Had Troubled Debt Restructurings (TDRs). 1. Reflected as NPAs, even though most were not 90-days past due when restructuring or modification was made. 2. While efforts are to responsibly keep borrowers in their homes and paying, as Co. believes that reduces overall costs, impact is that NPA number is elevated. 7. Once a loan has been evaluated under all various programs, if no other alternative exists, loan will be released into foreclosure or charged down. 3. Residential Mortgage: 1. Net losses, $1.2b or 207 BP, in line with 3Q09. 1. 30-plus delinquencies increased approx. $72m before impact from repurchasing delinquent government insured loans from securitizations. 1. This would be less than Co. would have seasonally expected. 2. Repurchasing delinquent government insured loans and securitizations added $9.4b to 90-plus day delinquency levels although they are still insured. 1. Repurchases these loans for economic reason since Co. can finance them at cheaper rate on balance sheet. 2. Risk exposure is the same whether with the service or a holder of these assets since they are insured. 2. Non-performing assets increased $1.2b. 1. Less than $2b in 3Q09, reflecting third qtr. in a row, declining new non-performing loans and higher [TRs]. 2. Of $17.7b of residential mortgage NPAs, TDRs make up 17%. 1. About 60% or $10.7b of NPAs are greater than 180-days past due and have been written down to appraised values, which should be considered when evaluating reserve adequacy. 3. Saw continued stabilization in severity and improvement in avg. size of charge-offs. 1. Reserve levels, slightly increased on this portfolio, representing 1.9% of period-end balances vs. 1.87% in Sept. 4. Believes dollar loss level has most likely peaked. 1. Given weakness in economy and continued pressure on home prices, Co. could see further deterioration in this portfolio. 4. Home Equity: 1. Net charge-offs decreased $410m to $1.6b. 1. Second qtr. in a row with decreases after adjusting last qtr. for accelerated charge-off related to adjustment to loss severities due to protractive nature of collection under some insurance contracts. 2. Drop was a bit greater than expected, driven by improvement in later stage delinquency performance. 1. Co. is a little skeptical if it can hold at this dollar level, as prior to Dec. Co. had told that it did not expect losses to peak until well into 2010. 2. 30-plus delinquencies, flat. 1. Better than seasonal expectations. 3. Non-performing assets, principally loans greater than 90-days past due, essentially flat at $3.9b. 1. 44% of NPAs were TDRs, where Co. believes it has improved likelihood of repayment. 4. Just over 80% of non-performing home equity loan modifications in 4Q09 were performing at time of reclassification into TDRs. 1. About 20% or approx. $790m of NPAs were greater than 180-days past due and have been written down to appraised values. 2. Increased reserves for this portfolio to $10.2b or 6.81% of ending balances. 1. 5.29%, excluding purchased impaired loans due to further deterioration in purchased impaired portfolio. 5. Direct & Indirect Loans (Includes auto and other dealer related portfolios and consumer lending). 1. Net charge-offs decreased 11% to $1.3b or 5.2% of portfolio. 2. Saw expected decrease of about $184m in consumer lending charge-offs. 1. Expects this trend to continue due to improvements in delinquent amounts. 6. Purchased Impaired Countrywide Portfolio: 1. Charge-offs were lower. 2. Last qtr., added $1.3b due to continued deterioration. 1. Addition this qtr. of $540m relates to further deterioration and reassessment of modification benefits as Co. gains more experience with customers going through remodification process. 3. Purchased impaired portfolios are LIFO loan reserved portfolios. 1. More sensitive to HPI and Co.'s success under modification programs. 4. Would expect lion's share charge-offs to come through in next few quarters. 7. Commercial Portfolios: 1. Net charge-offs decreased to $2.3b or 278 BP. 1. Down in dollar terms, about 14% from 3Q09 or 7% excluding approx. [$190m] in fraud-related losses in 3Q09. 2. Net losses in $18b small business portfolio, which Co. reported as commercial loan losses, decreased $112m to $684m vs. increases in past qtr. 1. Small business losses looked to have peaked as indicated by several linked-qtr. declines in 30-plus delinquencies and 90-plus delinquencies, which are down 11%. 3. Excluding small business, commercial net charge-off decreased $249m from 3Q09 to $1.6b, representing a charge-off ratio, 205 BP. 4. Losses: 1. 53% non real estate. 2. 47% real estate. 5. Within commercial real estate, net charge-offs decreased $128m to $745m, representing a charge-off, 4.15%. 6. Homebuilder losses, 37% of commercial real estate losses. 1. Down 26% from 3Q09. 7. Non-homebuilder losses, down 6%. 1. Reflects decreases in multifamily rentals and commercial land offset somewhat by increases in retail and office. 8. Would not expect losses to peak in this portfolio until well into the year if not near this year-end. 1. Losses will be little lumpy and bounce around. 2. Does not read much into decline this qtr., especially given non-homebuilder deterioration. 8. Commercial NPA: 1. Rose $607m. 1. Down 39% from 3Q09 to $13.5b. 2. 84% of increase was due to commercial real estate driven by non-homebuilder exposures mainly retail, commercial, land, multifamily rentals and multi-use. 2. Homebuilders dropped by 7%. 3. Commercial real estate makes up about 60% of balance or about $8.1b with about $3.2b or 40% via homebuilders. 1. Outside commercial real estate

NPA balances are concentrated in housing-related and consumer-dependant portfolios within commercial domestic. 2. Most significant of these industries are commercial services and supplies, and believes realtors, employment agencies, office supplies, etcetera at 5% of total commercial NPAs followed by individuals and trusts at 4% and media at 3%. 3. No other industry comprised greater than 2%. 4. Approx. 90% of commercial NPAs are collateralized. 1. Approx. 35% are contractually current. 5. Total commercial NPAs are carried at about 75% of original value before considering loan loss reserves. 6. Reservable criticized utilized exposure in commercial book actually decreased $1.4b vs. increase of $2.9b in 3Q09. 1. First decrease since 2006. 2. Decrease reflected declines in commercial non-real estate, both domestic and foreign offset somewhat by increase in real estate. 3. Increase in commercial real estate to $23.8b was driven mainly by increases in office, multifamily rentals, and hotels and motels. 1. Added to commercial reserves in 4Q09, of which almost all was related to commercial real estate. 7. Total commercial reserve coverage at Dec.-end increased to 2.96% of loans with real estate coverage being 5.14%. 9. Net Interest Income: 1. Vs. 3Q09 on managed and FTE basis, net interest income up $50m. 1. Managed core NII increased a little better than expected by approx. $140m, while market-based NII decreased about $90m. 2. Core NII increase was driven by factors, including: 1. Less of a credit drag, principally due to improvements seen in credit card performance. 2. Improved hedge results. 3. Increased deposit balances. 4. Lack of few one time negative items in 3Q09. 3. Offsets: 1. Lower loan levels. 2. Some initial impacts of not repricing for risk in card book. 2. Core net interest margin on managed basis increased 7 BP to 3.74%. 1. Took down a discretionary portfolio during 2009. 2. Experienced pay downs. 3. Loan demand has been weak; expects to stay this way until business and consumer confidence improve. 4. Lost some ability to reprice for risk in card book. 1. These factors would suggest Co. will see a decline in core managed net interest income this year from 2009 based on current forward curve. 5. Always gets a negative 1Q impact due to fewer days in qtr. 3. On positive side, once Co. sees economy strengthen and rates begin to increase beyond what's in the forwards, should see: 1. Less credit drag. 2. Strong earning asset growth. 3. Deposit cost benefits. 4. Interest rate risk position continues to be asset-sensitive. 1. Co. benefits as rates rise, and is exposed as rates decline. 1. Position is relatively unchanged from how Co. will be positioned at Sept.-end. 2. These impacts are based on changes to forward curve and relative to base forecast. 5. Remains cautious about economy, continues to believe asset-sensitive position makes sense, especially given low absolute level of rates. 10. Capital: 1. Dec.-end Tier 1 capital ratio, 10.4%. 1. Down 206 BP from 3Q09 due mainly to repayment TARP. 1. Equity raised associated with TARP increased Tier 1 common 138 BP to 7.81%, while tangible common equity ratio increased to 5.57%. 2. Appreciation above current carrying value for BlackRock nor China Construction Bank is included in capital. 2. Preferred dividends, $5b. 1. Of this, $4.66b was associated with TARP, including negative impact of repayment. 1. 54% [per share, per qtr.] given no tax benefit. 2. Excluding TARP, $340m. 1. Approx. the level Co. should experience going forward. 3. Liquidity remains strong. 1. Since Co. raised significant amount of equity, quite active in debt markets during 2Q and 3Q, Co. did not do any benchmark deals during 4Q. 2. As of Dec. 31 time to required funding metric, amount of time that parent co. can meet its debt obligations without new issuance, 25 months. 3. Unsecured long-term parent co. debt maturities in 2010, including those from debt of legacy Merrill Lynch holding co., will be approx. $46b spread over course of the year. 4. Will continue to be opportunistic in accessing debt markets in 2010, but probably will not match maturities given funding base and asset levels. 4. Impacting both capital and reserves effective 01/01/10 will be adoption of FAS 166 and 167. 1. Involves consolidation of certain assets that are currently carried off in the balance sheet. 2. Adjustment will be made to 1Q of balance sheet that increases assets and allowance for loan losses and decrease its capital for allowance increase. 3. Other than geography there is no impact to P&L. 5. Currently, best approximation is net incremental increase in assets of approx. $100b. 1. Largest component of this amount is net increase of $67b due to consolidation of credit card trust, comprised of $90b increase in credit card receivables less securitization assets already of balance sheet and increase in allowance for loan losses. 2. Other components for increase include $5b of home equity receivables and approx. $28b from consolidation of other special purpose entities including multi-seller conduits. 3. Risk weighted assets are currently expected to increase only $14b as many of the credit card assets were already included in calculation. 4. Has deferred tax asset limitation for Tier 1, so full reserve charge pretty much hits capital. 6. Additional allowance for loan losses is expected to be approx. $10.7b. 1. $10b for credit card and $700m for home equity, while impact of regulatory capital is expected to be reduction of approx. $10b including deferred tax limitation. 7. Tier 1 and Tier 1 common impact is expected to be reduction of approx. 70-75 BP, while impact of tangible common is expected to be reduction of approx. 50 BP. 1. These estimates are on fully phased basis. 2. Bank regulatories made option of phase in approach, but benefits

are not big. 1. This is little heavier than previously indicated due to change in credit reserving policy for credit cards and change in capital rules affecting conduits. 3. If credit card loans come back on balance sheet, reserving 12 months, which increase impact of adoption on Tier 1 by about 15 BP. 8. Impact of bringing card securitizations on balance sheet in 2009 would have added: 1. \$9.3b to net interest income. 2. \$2.1b to non-interest income. 3. Increased provision or charge-offs by about \$11.4b. 1. These impacts net to zero, but geography changes. 9. Will issue \$1.7b in common stock to associates as part of year-end compensation and \$3b through the sale of assets, which will increase capital. 1. Looking ahead to 2010, believes past the peak in total credit costs. 2. Believes 2010 will be tale of two periods, first being gradual improvement in economy and second being more significant improvement in consumer and commercial activity. 1. During first period, believes will see slow but continued improvements in overall credit quality with provision charge-offs dropping after adjusting for impact of FAS 166 and 167; but dependent on continued improvement in economy. 2. Even though economy appears to have stabilized, ultimate level of credit losses and reserve actions will be dependent on whether the stabilization in sustained and duration of credit cycle. 10. Assuming future economic performance is consistent with outlook, believes significant reserve additions are over. 1. Certain segments in commercial area are still deteriorated, probably won't stabilize return until late in the year at best. 2. There will probably be continued reserve additions for at least six months in commercial real estate and some lingering reserve additions in residential real estate. 11. Revenue levels at best will be volatile as headwinds of shrinking loan portfolio, CARD Act, Reg E, and higher mortgage rates. 1. CARD Act will manifest itself throughout the year in net interest income as the Act impacts Co.'s ability to risk-based reprised credit cards. 2. In card income, restrictions imposed on certain fees. 3. After mitigation strategies, believes impact will be some \$800m after-tax related to consumer credit card in US. 1. Felt little of this in 4Q09, but it will ramp up in 2010. 12. Believes Reg E will impact service charges starting in middle of 3Q10 for changes beyond those instituted in 2009. 1. Offsetting these headwinds should be lower provision, expense control and potential growth in other businesses like: 1. Investment brokerage services., 2. Investment banking. 3. Trading and commercial banking. 2. Aforementioned is heavily dependent on market recovery. 13. Believes positioned well to take advantage of whatever global economic offers. 1. Much of performance will correlate with domestic economy but will also be influenced by global economy.

QUESTION AND ANSWER SUMMARY

OPERATOR: (Operator Instructions). Let's go first to the site of Glenn Schorr with UBS. Your line is open.

GLENN SCHORR, ANALYST, UBS: Hi, thanks very much. So the positives have been pretty good, all things considered, can you give us a little clue on what you're doing on the asset side as there's, obviously, limited loan demand and your capital and liquidity ratios are pretty good?

JOE PRICE, CFO, BANK OF AMERICA CORPORATION: Well, Glenn, obviously the asset side's correlated to the economy, and so you're correct. We're seeing a downdraft clearly because just of charge-offs, one matter, but loan demand is still weak. We are beginning to see, quite frankly, in some of the commercial regions a little pickup in the pipelines, but I would call it little and early, but you're beginning to see a little bit of that. The consumer businesses continue to have decreases and probably will again until you see a little more consumer confidence come around. Kind of leaves us with the discretionary portfolio and we did add to the discretionary portfolio through securities this quarter some, but we've got to remain reasonably cautious about where the curve is at this time, and so you did see some of that come in, but we'll be very measured as we do that going forward.

BRIAN MOYNIHAN, CEO & PRESIDENT, BANK OF AMERICA CORPORATION: So I think, Glenn, the simple way to think about it is in a -- as the economy continues to improve you'll see better fundamental loan demand and the issue before that is whether you're going to reflect the economy.

GLENN SCHORR: Got you. So I don't want to put words in your mouth, but is it fair to say really short, really high quality for now on the securities portfolio?

JOE PRICE: Well, we'll add some and we did this quarter. We added some with loan duration, mortgage-based

stuff, but we also added some shorter duration. But if you think about the prepayments occurred in the mortgage book and the other -- in the other longer-duration assets that are going off, so we have some ability to replace some of that without giving us too much OCI risk, if you want to think of it that way, the high quality -- but high quality, yes.

GLENN SCHORR: And I apologize if you disclosed it and I just missed it, but do you give the duration of the securities portfolio -- average duration?

JOE PRICE: I think by the time the Q comes you'll see the details.

GLENN SCHORR: Got it, okay. Maybe this is somewhat related. Bank of America has a decent amount of debt coming due over the course of the next 12 to 18 months, but you also have capital and liquidity and the balance sheet's come in a little bit. Can you just talk about your expectations on the funding side?

JOE PRICE: Overall debt issuance?

GLENN SCHORR: Yes, overall debt issuance, yes.

JOE PRICE: As I mentioned before, given the liquidity base and given the asset side of the balance sheet, don't expect us to replace maturities completely. Now, we need to stay active and we will stay active and there are some attractiveness to the rate environment, et cetera, from that standpoint, so -- but the way you should look at it is -- and if you go back in my remarks you'll see we gave the actual numbers of what's coming due -- we'll continue to let some of that drift down as opposed to full replacement.

GLENN SCHORR: Good. And then I don't know if there's much you can say. In the prepared remarks you told us that the reps and warranty charge was a little bit higher, but there seems to be a mounting concern that those numbers start to add up. Is there any help that you can give us in terms of sizing the amount of claims against you from the various counter parties?

JOE PRICE: Yes. Obviously I don't want to go into the details on specific clients or customers or insurers from that standpoint, but think of it as -- and we've kind of gone through this, not recently, with some of the earlier days of -- right after the acquisition of Countrywide. There's several buckets. There are claims that come back from the GSD, there are claims that come back from purchasers of loans, think of that as private transaction. And then there's mono line wrap things. We continue to work each of those based on the claims that are presented. I wouldn't -- I'd be disingenuous if I didn't say people were throwing everything over the wall they can because they are in a view of trying to get something back. But look, this is a loan by loan, detailed review of the facts and circumstances, whether it's curable, whether the loan's been performing for an extended period, all practices and those things, and we reserve for it on a FAS 5 basis, think of it as quarterly. We book in the hundreds of millions of dollar kind of number, which is. I think I mentioned before, netted against the production income and we'll continue to do that. But, look, this is not a quick process. This is a multi-year extended process looking at individual credits.

GLENN SCHORR: And as -- and I appreciate that answer. As you go through it and as you start to have some experience on where replacements are needed versus cases you win, does that give you a good enough window into the future to be boosting reserves other than what the current billing is? In other words, you don't disclose to us what the size of the past originations and sales had -- in question are, or the reserves are, but people basically want to get a feel from you of whether or not you feel you're well enough reserves or if this is going to be persisting and mounting issue of the coming eight quarters?

JOE PRICE: Look, I think the way to think about it is Countrywide had a reserve, we adjusted that purchase accounting, we've been adding to it quarterly -- or dealing with it quarterly with the expenses each quarter since then and we'll continue to manage it that way. Yes, we do get more experience every quarter as we go through the individual loans. Remember, though, that we've had some pretty tough consumer real estate portfolios that have been wrapped by insurers. We exited a business back in '01 that we went through some of the same kind of exercises with, so the same

team that has done those workouts, which I might add continue today from back then, and that's what I was talking about, the protracted nature of how this process works -- or the ones on it -- and so we do have quite a bit of experience in how to estimate on a FAS 5 basis and I'd only characterize the reserves that we are carrying as in the billions. So we feel pretty good about where we stand. But, look, we'll continue to get claims and we'll continue to work through it and this doesn't go away over night.

GLENN SCHORR: Okay. Thank you very much.

OPERATOR: We'll go next to the site of Matt O'Connor with Deutsche Bank. Your line is open.

MATT O'CONNOR, ANALYST, DEUTSCHE BANK: Hi, guys.

BRIAN MOYNIHAN: Hey, Matt.

JOE PRICE: Matt, how are you?

MATT O'CONNOR: I guess first on the credit side, Joe, you provide a lot of comments regarding specific loan buckets. It seems like some are trending up still a number [are inflicting here]. So as we think about total charge-off on a managed basis heading into 1Q, do we get a little tickup overall and then it starts to trend down from there, or how should we think about the [mass] charge-offs quarter to quarter?

JOE PRICE: Matt, I'll almost tell you you got to go back and think product by product, because as I mentioned before, commercial real estate, especially non-home builder, will be somewhat lumpy and episodic. Other components of the commercial side, especially small business, feels like it's on a downward trajectory. Core domestic, as you saw the reservable criticized drop, is an indicator that thinks steel more stable in that side, but obviously they're economic dependent. On the consumer side, again, I'd tell you to go back and look by product. Card, we saw pretty good change. We've seen probably a little more drop in delinquencies, but not quite at the same pace of the drop earlier, so that ought to factor into your thinking. And then on real estate, we feel pretty good about the levels that we're experiencing, but as I said in the comments, home equity is probably doing a little better than we might have expected, so it wouldn't surprise us to see that bounce around. And then the foreclosure market, or the houses coming on the marketplace potentially have an effect, although we feel we've got that as considered as we could, given the knowledge we've got.

BRIAN MOYNIHAN: I think we've said that they'd remain elevated. I think you have to be careful about the speed of which the government works through the portfolios in terms of quarter-to-quarter linkage, but the overall balances and the most troubled portfolios have come down and the overall progress the team's made in collections effort is better, so you've just got to keep that in balance because the underlying economy is still not healed and unemployment's still high.

MATT O'CONNOR: Okay, thanks. And then, Brian, a bigger picture question for you. We've seen you make a couple changes to the senior management team so as we think about the core businesses, any meaningful changes or deeper dives that you're taking now in terms of the products, the way that you deliver to customers or even the customers that you're targeting?

BRIAN MOYNIHAN: The business model's sound. In other words, the core customer base on the consumer side, whether mass market consumers and high net-worth (inaudible) consumers and then the small business, medium business, large businesses, and then the investor communities. That business model's sound, intermediating for our corporate clients to the investors, so don't look for us to make any changes. We've got a couple dispositions we have to make, but in terms of the core business model, it's sound, it operates, the market shares are there and it's just taking this massive customer base and taking the product capabilities and putting them together on better and better ways and driving them, whether it's a company or whether it's individual. So don't look for any management changes.

MATT O'CONNOR: Okay. I guess as a follow up, in terms of the size of the balance sheet, given that you're

adding some securities here, it seems like you're comfortable with the overall size, plus or minus?

BRIAN MOYNIHAN: Yes, it'll bounce around. We're talking about rel -- across our large balance sheet we're talking about relatively minor adjustments and then-- so it'll bounce around. There's no need to grow -- we have enough room to grow the core loans when they start to grow them within the size -- for a while just based on where we are, but don't expect it to bounce around -- to move dramatically either way.

MATT O'CONNOR: Okay. Thank you very much.

OPERATOR: We'll take our next question from the site of Ed Najarian from ISI Group. Your line is open.

BRIAN MOYNIHAN: Hi, Ed.

ED NAJARIAN, ANALYST, ISI GROUP: Quick question on capital ratios. Given the changes you've outlined with regard to 166 and 167 and then obviously indicated continuing to build capital ratios with the common stock issuance and the $3 billion asset sale, but that still seems like it's going to bring us a little bit short of the 8.5% Tier 1 common ratio that you talked about when you did your equity offering. Have you had any follow-up discussions with the regulators as to where capital ratios need to get into '10 in light of your new outlook on 166 and 167? And should we think of the capital actions that you've outlined for 2010 as all that's required, or could there be more that's required?

JOE PRICE: Look, we don't talk specifically about conversations with regulators, we can't, so think of it more as the way as the way we look at the Company and we manage. We're pretty much in line with our expectations of capital. Now clearly, when we made the decision here in closing the books to change the reserve level coverage for card, that had an impact on the -- on this -- compared to the pro forma that we would have showed you it was based purely on 9-30. The outlook on capital, you've got a lot of things coming at you. You've got the market risk rules. You've got the Basel II pieces. You've got the -- I call it the December 17th proposals. A lot to work through over time. In the near term we think all of those are manageable and considered and the way we look at capital and how we came up with what we felt comfortable with in the raise from that standpoint, obviously supplemented by these few things still to get executed. So no -- at this point, no major contemplation of any other actions other than those, unless something falls out, as Brian said, as we look at the aggregate company for things from that standpoint.

ED NAJARIAN: So until we see some kind of additional clarity from regulators on capital ratios you wouldn't expect any additional actions other than the things you've already outlined?

JOE PRICE: At this point, no, not at this point.

ED NAJARIAN: Okay, and then just a real quick follow-up, sort of housekeeping, mapping question. When we look at the Merrill Lynch structured note loss, I'm assuming that's in your income statement in other income and the marks on legacy assets is a net against trading account profits, is that correct?

JOE PRICE: Yes to the first part. The second part, it kind of depends. Some of that'll be in other also.

ED NAJARIAN: Okay. Thank you very much.

OPERATOR: We'll go next to the site of Betsy Graseck with Morgan Stanley. Your line is open.

BETSY GRASECK, ANALYST, MORGAN STANLEY: Thanks, a couple of questions. One is on the recision loans that was discussed a little bit earlier. Can I just understand how you think about what kind of NPL should fall out of these loans that you're buying? Are these all going NPLs, is the roll rates 100% NPLs, or what kind of experience have you had? And to what degree are you reserving for these, as you buy them versus as they perform relatively to expectations?

JOE PRICE: Are you talking about the insured loans that I referenced in the delinquency numbers, Betsy?

BETSY GRASECK: Yes.

JOE PRICE: Yes, those are -- think of those as government insured so they are performing past due -- not non-performing past due, so what I was trying to do is, if you pull our delinquency stature, if you look at them, you'll see a pretty big jump in the 30 and 90 and first mortgage past-due performing, and I didn't want you to get misled by that, so I was simply explaining what that was. So those are insured so they would in theory not carry a reserve. We -- obviously when you look at our reserve coverage numbers they're in the loans and so they kind of in essence distort that a tad, but in the grand scheme of things it's not that big.

BETSY GRASECK: Right, because you expect the insurance to pay?

BRIAN MOYNIHAN: Can you expect insurance to pay?

JOE PRICE: Yes, these are FHA type.-

BETSY GRASECK: Right, right. And then on the loans that you're buying from private investors, et cetera, that might not be wrapped same kind of question, are you reserving point in time of purchase, are you reserving as they perform relative to your expectations? Just give us the extent on that.

JOE PRICE: You mean basically rep and warranty questions --

BETSY GRASECK: Correct.

JOE PRICE: -- on the whole loan as opposed to --

BETSY GRASECK: Correct.

JOE PRICE: Few and far between. If you think about the hierarchy of reps and warranties think of them as probably be in the -- quite frankly they're probably the clearest in GSEs, mono lines are next and then in private sales the reps and warranties generally by this time are somewhat unenforceable, not from a data standpoint, but just from a lack of time and they've run out, so don't -- that ones -- I wouldn't put that one on your radar screen.

BETSY GRASECK: Okay. And then you discussed the coming capital actions, which will add to common Tier 1, like the issuance of stock and then the asset sales that you're anticipating, as well as warrants, right? I think there's warrants outstanding in the money. Can you give us some sense as to whether or not that's going to be action that you take this quarter?

JOE PRICE: The warrants here, you're talking about the ones associated with TARP?

BETSY GRASECK: Correct.

JOE PRICE: Yes, those are warrants that -- I think we said in the press release when we did the TARP announcement and payback that we would not intend to repurchase those, so those presumably would be sold by the government that they're -- when they're ready to do that. We have certain registration activities we have to go through to go through to help them do that, but they'll do that at their own calling and you wouldn't see a capital impact of that, obviously, until those were either exercised or some kind of a current by whoever ultimately holds those. The other asset sales clearly that we had committed to increase capital by $3 billion, that process we're under way in a review consistent with what we talked about before to identify the appropriate either businesses and/or discretionary assets to make that claim. So those are the real two big things.

BRIAN MOYNIHAN: The simple thing on the government warrants is, it won't be any capital hit to us because they'll be somebody else's hands.

BETSY GRASECK: Yes, some of it's in the money, so I'm just surprised that you haven't -- the actions hasn't started yet.

JOE PRICE: Yes. Well, let me -- the treasury hasn't sold them per se. Once they sell them, if they're in the money, somebody wants to exercise them. In other words, it won't be triggered by us I guess is the point.

BETSY GRASECK: Right, I understand that. Brian, could you just give us a sense of how you are going to be managing your team? What are the marching orders that you're going to be delivering to your group? Is it more top line, bottom line, market share, net new business? Could you just give us a sense of your priorities?

BRIAN MOYNIHAN: If you look across the businesses they have different priorities. Obviously, in Sally and Tom's area the top line is there to get and they've got to drive at that and so they're going to drive more of a top-line driven with expenses matching and on a rational basis. If you look on the consumer side, Joe and Barbara and and the teams below them having worked over there, that's more matching. Really we're so big in the consumer business so the revenue growth will be measured and matching a good expense management capability against that and really dealing with, in both card and deposits, the changes and trying to figure out ways to recover some of those changes either through deposit pricing or other ways. So the challenges are different but the way I'm going to drive the team is consistent. We'll recognize the opportunities and challenges and drive the businesses -- these six or seven major businesses and customer groups along those -- along differentiated lines and being carefully driven. But we as a company will be grinding through, because of our size, revenue that will not outdistance the economy by a lot just because we're so big and we got to be realistic about it, but that means managing expenses and businesses that (inaudible).

BETSY GRASECK: Would you think about coming into the Market with some goals or targets that you're going to be assessing your management team against?

BRIAN MOYNIHAN: Yes, we will, and that's really as we get into the first quarter and go through that. This call's about last year's fourth quarter, so work with the management team now and so expect that as we get into some of the analyst conferences and the earnings release after the first quarter.

BETSY GRASECK: And then lastly, on the CFO search, could you just give us a sense of your timing on that?

BRIAN MOYNIHAN: As soon as possible.

BETSY GRASECK: But obviously there's folks internal to BAC who I would think are in the running, as well. At what point do you cut off the external search?

BRIAN MOYNIHAN: I think our intent to go external and so the process is already started and a list is starting to be -- the list of candidates are being approached and so stay tuned, but this is obviously a key hire for us as a Company.

BETSY GRASECK: Anything in particular that you're looking for?

BRIAN MOYNIHAN: Someone who's good.

BETSY GRASECK: Okay. Thanks.

OPERATOR: We'll go next to the site of Paul Miller with FBR Capital Market. Your line is open.

PAUL MILLER, ANALYST, FBR CAPITAL MARKETS: Yes, thank you very much. Brian, last year Ken Lewis talked about a pretax provision number of around $45 billion for 2009, which you basically came in at $45 billion, $50 billion number, and we know it's very volatile, but can you give us any guidance of where you think that number's going to shake out in 2010 and does it change now that you bring on the managed credit card portfolio and how much does it change by?

BRIAN MOYNIHAN: We -- I can give you the guidance what we see in the fourth quarter, which is on the fourth or fifth page in here, but we're not going to give guidance about that for 2010. And I think for the question of whether your view or other analysts view of how you included the managed versus non-managed presentation I think is something we'll shake out here. So Lee and Kevin and some others makes sure people see how the 167, et cetera, comes through. But I think all of you should make sure we understand that, because there is a major difference in the card business contribution on (inaudible) basis that way. Overall, frankly, though in the card business, remember that we'll bring -- over time, in periods of time, that charge will come down, but that business will always have -- it's big at a charge-off rate that approaches what will be the normal environment. There'll still be -- you can't discount. It'll always be a relatively large dollar amount of charge-offs, even in good times, going through that business just because of the nature of it. So I think that -- with your sophistication, as you look at this you'll bring the managed in and then you'll figure out a normalized basis. Long answer say we won't put that on the table for 2010, but clarity on guidance to help manage (inaudible) we'll give you.

PAUL MILLER: Can you just touch base real quick on your cash position. You were about $120 billion. It's something a lot of people are looking at and hoping you can bring this back into the portfolio at some point and get a decent spread on, or is it something that the regulators -- I know you don't want to talk about regulators per se, but you saw the Basel cores -- Basel white paper, I guess, that talked about that banks have to -- should hold a lot higher liquidity. Is that something you're preparing for with this $120 billion of cash or plus, or do you think you can bring that back in and deploy that on the portfolio at some point?

JOE PRICE: Look, I think we probably don't think of it just as cash because you think of it more as how do you manage the liquidity and the liquidity can be redeployment into highly-liquid (inaudible) securities that have withstood these kind of downturns, so there's an opportunity to manage it from that standpoint. If you look at what we've done, though, here recently, clearly the payoff of TARP, net of the equity raise, was a use of cash. We've -- but we've also seen wholesale funding come down as retail deposits have gone up. We've let the debt footprint run off a little bit and we have redeployed some, as I referenced earlier, in securities. But clearly, the balance sheet is not what it was at one time if you look at all the combined entities. Going forward, I'd probably say I don't focus, again, as much on the individual line item as I do the overall liquidity. You are correct that world has changed and I don't think people are going to run -- anyone's going to run the kind of liquidity levels you saw before the disruption, so we will have "elevated liquidity," but don't think of it as having to stay in cash is probably the best way to think about it.

PAUL MILLER: Okay. Thank you very much, gentlemen.

JOE PRICE: Thank you.

OPERATOR: And let's move next to the site of Jefferson Harralson with KBW. Your line is open.

JEFFERSON HARRALSON, ANALYST, KBW: Thanks, good morning.

BRIAN MOYNIHAN: Good morning.

JEFFERSON HARRALSON: I was going to ask you about your loan modification experience, and recidivism rates, I see, in your non-asset -- nonperforming asset activities there's a large increase in the return to performing status and your consumer loans that went from $1 billion to roughly $2.2 billion. Can you talk about what drove that number, a large increase of return to performing status and your experience with loan mods and recidivism rates?

JOE PRICE: Yes, we tried to give you -- and this wouldn't be all loan mods by any mean, but we tried to give you the TDR numbers. If you look in that slide package at both home equity and first mortgage we try to give you the experience of what is paying to modify terms so you can actually see that. We do -- actually we feel pretty good about it. Think of -- and think of those as having to be six months of performance, either leading up to the modification side they would have been current leading into it, or if they are put in nonperforming that modification having to -- or had been on nonperforming they'll have to have six months performance before they actually go. So think of the stats I gave

you in those two slides as being indicative of our view of a big subset being the TDRs. And I think on an overall basis we would say that the modifications done over the last few quarters probably will have better reperformance than those done early on because the early on ones, especially let's call it early on in '08, may not have had quite the level of borrower relief embedded in them, so I think it'll get better over time is the way we're looking at it.

JEFFERSON HARRALSON: And asking a similar question on the commercial side, are you seeing the interagency white paper on change in how you look at commercial real estate more focused on cash flows versus appraisals, are you seeing that have an impact on how you look at nonperformers, or is it slowing down the inflow of new NPLs?

JOE PRICE: No, not given the cash flow lending mechanism, the view that we've always had it really doesn't change our view.

JEFFERSON HARRALSON: Okay, thanks a lot, guys.

OPERATOR: We'll go next to the site of Mike Mayo with CLSA. Your line is open.

MIKE MAYO, ANALYST, CLSA: Good morning.

JOE PRICE: Good morning.

MIKE MAYO: One real factual question and then a real conceptual question. The factual question is, what is the line utilization for your commercial borrowers?

JOE PRICE: Stayed at about -- I think bouncing between 57%, 58%. Stayed there this quarter compared to last quarter, so we've seen stability in that line.

MIKE MAYO: 57%, 58%?

JOE PRICE: Yes.

MIKE MAYO: And wasn't that close to the all-time low, though?

JOE PRICE: Yes. We're kind of in that trough, but it's kind of leveled in that trough as opposed to continuing is the way to think about it.

MIKE MAYO: Okay.

BRIAN MOYNIHAN: Mike, rather than give specific percentages because it's a little -- it's going different in middle market areas, but the point is, is that commercial clients are drawing it to the lowest levels we've seen in a long time because they just don't have the demand and that's something that's stabilized, but that's where they sit.

JOE PRICE: Stabilized low basically.

MIKE MAYO: But you're willing to offer them the loans, they just aren't borrowing?

BRIAN MOYNIHAN: That's what -- they have the capacity to borrow, assuming on the borrowing restrictions, then they have to build inventory receivables and stuff to actually get the cre -- the capacity, but the structure's there for them to borrow if they have the demand.

MIKE MAYO: Why do you think they're not borrowing? Why don't you think the demand is there?

BRIAN MOYNIHAN: I think they are looking at the economy. When we talk to them they're looking the at economy the same way we are, saying it feels better but until I see some fundamental demand build up I'm going to hire or build up inventories in expectation of sales. Now, the internet and the global companies are a little bit better because

the international piece is a little stronger, but they're just cautious. They're cautious unemployment levels and they've done a very, very good job as a group to get themselves underneath this economy and they're not going to blow it now, so they're being very cautious.

MIKE MAYO: And then the big picture question, Brian, since it's the first call since you were CEO, there are a couple of questions went in this direction, but when I think of Hugh McColl in the '90s he wanted to build the biggest bank in America, that was his goal. When I think of Ken Lewis last decade he wanted to create on of the most optimized banks and the most efficient banks. As we think about what you want to achieve in a big picture sense, are you able to articulate really what you want to achieve, or will that take some more time?

BRIAN MOYNIHAN: I think from a broad basis the mission will be to be the best financial services firm in the world and balance between the goals of Hugh and Ken and others, which is we've got to make sure that we really do a great job with the consumers and that's customers and clients overall in the consumers. Right now that's a little difficult because of the economy, but balance between the customers and associates and the shareholders. So it's not a different thing. It's just that we are at a point where we don't have to think about do we need a product or service, we're just at a point that we need to execute. I know that sounds simple to say, it's hard to do, but it is absolutely critical, and will generate a lot of cash out of this franchise as the economy recovers.

MIKE MAYO: And then last follow up. The balance between customers, associates and shareholders, is that balance changing? Is it changing so much it might hurt your ability to compete? You might add a fourth category, the government or regulators, too, how is that balance changing?

BRIAN MOYNIHAN: Well, I think if you think about the industry we are adjusting to the -- Mike, you know the rating changes and Card Act and so as that -- those questions come in we have to figure out -- and our job as management figure out how we're going to get a return on your capital and your investment given those challenges. And we have very bright people, we have a very good franchise, a great customer base. We don't -- it's not going to be an insurmountable hurdle, but the rules have changed and we've got to take that into account. But the belief in that is, that's because customer behavior's changed and the impact on some of the things we did over the last ten years on the customer didn't come out the way they did in tougher economic times and we have to reconfigure them.

MIKE MAYO: All right, thank you.

OPERATOR: We'll go next to the site of John McDonald with Sanford Bernstein. Your line is open.

JOHN MCDONALD, ANALYST, SANFORD BERNSTEIN: Hi, good morning.

BRIAN MOYNIHAN: Good morning, John.

JOHN MCDONALD: What are your opportunities for expense leverage in 2010 and beyond? And Joe, is the fourth quarter expense a good run rate for 2010, and could you remind us what kind of cost saves you might have incrementally from that run rate?

JOE PRICE: Well, think about the -- I think I mentioned that we had some heavy litigation cost, remember in the third quarter we had wrap costs to exit the proposed wrap, so that's one item that's floating in there. On your -- you also had some continued leverage coming out of the acquisitions, but quite frankly, we got more this year out of Merrill Lynch's expense base than we might have anticipated and until the "systems changes" come in, which will be -- think of them as later next year rather than earlier, you may be at a run rate here for a few quarters on expense saves that doesn't take another leg up until a little bit later into next year. You also -- obviously you have let's call it revenue-driven expense items, (inaudible) business and others that were down this quarter would have had lower expense component compared to that. It goes back to Brian's point about how we're managing those businesses and which ones we're pushing, but those are all the dynamics working on this.

Obviously remember Q1 always has this weird animal with FAS 123R that levels out, but that'll be elevated with a larger market platform this year, this year being 2010, things of that nature. So that's the backdrop you're working under. I think to the point of the individual businesses, if you go back to Brian's comments about how he's managing the Company, clearly on some of the businesses there we'll be looking for very tight expense control given the dynamics of the revenue side. Others hopefully will drive revenue up that will have expense growth associated with it from that standpoint. So I think you've got a reasonable base if you take those things into consideration to work with.

JOHN MCDONALD: Okay, and I apologize if you mentioned it. Do you have any color on the comp ratio in the investment bank in the fourth quarter and what -- any impact from changes in the mix of compensation between cash and stock?

JOE PRICE: Well, I think you should think of us as migrating towards the Bank of America policy, which traditionally would have had a heavier deferred component than maybe the Merrill one at certain times in their history. Think of the add on this year, although we call it expense in the current year, for the TARP repayment contribution by the associates being $1.7 billion. That would be an added on top of your normal comp payout, deferred portion versus current. Now they're entitled to that stock day one so you get to expense it, but you can't transfer it until later from that standpoint. So that'd be the way to think about the mix. In terms of the ratios, we don't give the specific ratios for just the markets business. You can look at Tom's individual business line, but you got to remember part of the investment bank was in the banking group, et cetera, but we don't give the specifics for that particular unit.

JOHN MCDONALD: Okay, and last follow up, Joe. A quick review of the puts and takes on your margin outlook. What are the sources of incremental downside pressure you mentioned going into '10 and don't you have some off debts is from maybe relief of interest reversals as we get out further?

JOE PRICE: Well, we've actually not had this quarter -- that was one of the items that drove us to a little better than expected performance this quarter in the margin. I'd say the credit drag on the margin dropped by about $1.5 billion. Think of it as closer to $1 billion this quarter and it was about $1 billion, $1.50 billion. I'm rounding, but generally speaking. That'll continue to abate as credit quality gets better, although you may have seen -- as I mentioned, just talking about charge-offs, may have seen a bigger improvement in Card last quarter if you just track delinquencies than you might see here going for at least for the near term, but that'll be a positive. We have lower loan levels, flat out, and then some of those are in your higher margin levels. We have a lower discretionary book year over year, again, as opposed to linked quarter. That'll have a drag on us. And then the repricing of risk in the Card book will be something we have to manage through.

On the other side, though, clearly, as we move into a higher rate environment you see the benefit of our deposit base flip from stability, which is how you see it today, to lower funding costs coming out of this thing, so that's a positive. Clearly as the economy begins to recover or you get the loan growth back and all of those other factors then we'll be able to reassess the discretionary side also as we come into more strength in the economy.

JOHN MCDONALD: Okay, thanks very much.

OPERATOR: We'll take our final question from the site of Moshe Orenbuch with Credit Suisse. Your line is open.

MOSHE ORENBUCH, ANALYST, CREDIT SUISSE: Great, thanks. If you could give a little more color about how the actions that you've taken in terms of loan modifications and other forbearance have affected charge-offs now and how you think that pattern might be reflected in the next couple of quarters and how we should think about that with respect to the reserve over first half or several quarters of 2010?

BRIAN MOYNIHAN: I think on the charge-off side, modifications -- as I referenced earlier, Moshe, you've got to have performance -- subsequent performance to keep them from continuing to deteriorate from a delinquency standpoint, nd so I would say that the only effects they have had on actual charge-offs are where we've had actual performance that kept them out of those buckets that would roll into the charge-off delinquency status. It's hard to

theorize on had we not made the modification exactly how many would or wouldn't have gone, so that's a difficult thing to view. From a reserving standpoint, it's -- you're correct. You can think about it more. You saw the action we took on the impaired portfolio. Part of the charge this quarter was a reassessment as we've gotten more familiar with customer behavior, ie, how many customers actually take the modification, how many of them are -- get -- flush the gamers through the system, get to the real people that need them, et cetera, so that's one of the reasons you saw us take reserve action there. We're probably carrying a little more reserve in a couple of the other consumer real estate products in anticipation of continued some level of redefault in our projections and things like that, so that's the conceptual way, but I don't have any numbers to put around it for you.

MOSHE ORENBUCH: Okay, but it seems reasonable that the -- I don't want to say excess reserves, but that the reserves have built -- have certainly at least built in that for activity and to the extent it is worse than there should be, at worst adequate reserves and potentially some excess to be recovered?

JOE PRICE: Subject to the economy.

MOSHE ORENBUCH: Right.

JOE PRICE: Subject to my other rule changes that might come out I guess is the way to think about it.

MOSHE ORENBUCH: Okay, thanks very much.

BRIAN MOYNIHAN: Thank you, everyone, and we will see you next time.

OPERATOR: And this concludes today's teleconference. Have a great day. You may disconnect at this time.

LOAD-DATE: January 28, 2010